

U.S. Department of Homeland Security  
500 12<sup>th</sup> St. SW; STOP 5009  
Washington, DC, 20536-5009



**U.S. Immigration  
and Customs  
Enforcement**

April 23, 2012

MUCKROCK NEWS  
ATTN: MICHAEL MORISY  
DEPT MR 1058  
PO BOX 55819  
BOSTON, MA 02205-5819

**RE: OPLA12-442, 2012FOIA5441**

Dear Mr. Morisy:

This is in response to your letter, dated February 26, 2012, appealing the adverse determination concerning your Freedom of Information Act/Privacy Act (FOIA/PA) request. The initial request asked for records regarding the arrest, investigation, or detainment of Leigh Van Bryan and Emily Blunting.

U.S. Immigration and Customs Enforcement (ICE) denied your request in full by refusing to confirm or deny the existence of records pursuant to FOIA Exemptions 6 and 7(C). We have reviewed the records in question that gave rise to this initial determination.

Protecting the privacy interests of individuals who are named in investigatory records and are the targets of FOIA requests requires special procedures. Most agencies with criminal law enforcement responsibilities follow the approach of the FBI, which is generally to respond to FOIA requests for records concerning other individuals by refusing to confirm or deny whether such records exist. Such a response is necessary because members of the public may draw adverse inferences from the mere fact that an individual is mentioned in the files of a criminal law enforcement agency.<sup>1</sup>

In particular, the reasoning behind the use of these exemptions in the initial determination was provided to you in the letter dated January 30, 2012.

Upon complete review of the application of (b)(6) and (b)(7)(C) to refuse to confirm or deny the existence of records, this action was proper in all respects under the applicable provisions of 5 U.S.C. § 552 cited above.

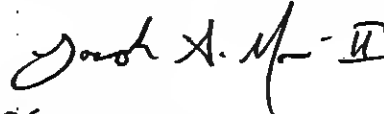
This decision is the final action of U.S. Immigration and Customs Enforcement concerning your FOIA/PA request. Inasmuch as you consider this to be a denial of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you reside, or in which the agency records are situated, or in the District of Columbia.

<sup>1</sup> See, Ray v. DOJ, 778 F. Supp. 1212, 1215 (S.D. Fla. 1991).

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

Should you have any questions regarding this appeal closure, please contact ICE at [ice-foia@dhs.gov](mailto:ice-foia@dhs.gov). In the subject line of the email please include the word "appeal", your appeal number, which is **OPLA12-442**, and the FOIA case number, which is **2012FOIA5441**.

Sincerely,



Susan Mathias

Chief

Government Information Law Division  
ICE Office of the Principal Legal Advisor  
Department of Homeland Security